

# DRAFT

TO THE STATE ENGINEER OF THE STATE OF UTAH

IN THE MATTER OF EXCHANGE

APPLICATION NO. 466

MEMORANDUM DECISION

Exchange Application No. 466 was filed by Raleigh F. Williams ~~of Spanish Fork, Utah,~~ to exchange a maximum of 50 acre feet of water evidenced by ~~ownership of~~ stock in the Strawberry Water User's Association. This water has been stored yearround and diverted between May 1<sup>st</sup> and October 1<sup>st</sup> from the Spanish Fork River at a point W. 570 ft. and N. 985 ft. from E $\frac{1}{4}$  Cor. Sec. 19, T9S, R4E, SLB&M, and used for all 48 acres of land for irrigation purposes.

Hereafter, ~~a maximum of~~ <sup>not more than</sup> 50 acre feet, ~~represented by the forgoing right,~~ will be delivered ~~from May 1, to October 1,~~ to Spanish Fork River at a point described above, and in lieu thereof <sup>like quantity</sup> ~~a maximum of 50 acre feet~~ will be diverted from January 1<sup>st</sup> to December 31<sup>st</sup> from the Birch Bottom Springs. at a point N. 2100 ft. and W 3000 ft. from the SE Cor. Sec. 12, T9S, R3E, SLB&M. The water will be used for the domestic purposes of 56 families in Sec. 14, 23, T9S, R3E, SLB&M. This exchange application was advertised in the Spanish Fork Press from November 18, to December 2, 1971, and has been protested by Spanish Fork City and several irrigation companies, ~~in the Spanish Fork area.~~

A hearing was held on the above-numbered application at Provo on Wednesday, March 1, 1972. At the hearing, the applicant stated that they <sup>wish to</sup> ~~were desirous~~ <sup>exchange their</sup> ~~of using their waters,~~ to which they were entitled by ownership of the stock in <sup>from</sup> ~~the~~ Strawberry Water User's Association, <sup>a</sup> ~~for~~ domestic <sup>supply,</sup> ~~purposes~~ rather than for irrigation, and that ~~in doing so,~~ they would comply with the administration of the Spanish Fork River and would meet all of the regulations for the county and State health departments. The protestants contended that the Birch Bottom Springs contributed ~~X~~ to the flow of the Spanish Fork River, and possibly to the Cold Spring.

*Malcom*  
and ~~Mountain~~ Spring which serves as a water supply for the Spanish Fork City. The applicant responded that ~~they will take no more water from the Spanish Fork system than what they were entitled to under their stock ownership, and that~~ the Birch Bottom Springs were a different source from the Cold Springs which were in the immediate vicinity of the Birch Bottom Springs, and would probably not influence <sup>*them or*</sup> the Malcom Springs in any way.

A field inspection was made by a representative of the State Engineer on March 29, 1972. The point at which the water has been diverted from Spanish Fork River and used on the irrigated lands is about one mile upstream from the Birch Bottom Springs. There are no other rights on the river in between. The flow from Birch Bottom Springs has fed ~~into~~ wet pasture land and at one time may have been diverted and used on several acres of land now belonging to the applicant. The structure of the mountains in this area indicates that the flow of Pole Canyon now feeds into the alluvium at the mouth of the canyon, and <sup>*may*</sup> be the source of supply for the Birch Bottom Spring. The Birch Bottom Springs and Cold Springs used by Spanish Fork City are at approximately the same elevation; although, the Birch Bottom Springs is about ½ mile upstream along the river from the ~~Pole~~ Cold Springs, but on the opposite side of the river. The Cold Springs have been extensively developed by the Spanish Fork City, and those who witnessed these developments indicated that the flow into the springs was from the North and East of the spring area, whereas, the Pole Canyon feeding into Birch Bottom Springs is to the South and West of the spring area. The geology and topography of the areas bear this out. Both springs areas are free flowing. The Birch Bottom Springs has been measured at 3.43 cfs. The flow from Cold Springs is substantially <sup>*greater*</sup> than that. The Malcom Springs which have been developed and used by the Spanish Fork City, are approximately 3 miles below Birch Bottom Springs and are about 100 ft. lower in elevation. The diversion by the Strawberry Water User's Association canal is approximately midway between the two spring areas. Both Cold Springs and the Malcom Springs are subject to some contamination and the waters must be chlorinated in order to be acceptable as a public health supply.

It is the opinion of the State Engineer that the ~~waters~~ from the Spanish Fork River can be exchanged for the water of the Birch Bottom Springs under the terms of this application without interference with the supplies of the Spanish Fork City or the other users on the Spanish Fork River provided certain precautions are taken.

It is, therefore, ORDERED and ~~Exchange~~ Application No. 466 is hereby APPROVED subject to the following conditions:

1. No more water may be diverted from the well each year than the applicant is entitled to under the ownership of stock in the Strawberry Water User's Association.
2. The applicant shall install a permanent totalizing water meter on the spring diversion to measure the water obtained and the meter shall be available for inspection and reading by the River Commissioner at all reasonable times that may be required by the Commissioner in regulating this Exchange.
3. The water being used shall be released in to the Spanish Fork River as called for by the River Commissioner.
4. The quantity of water being exchanged in a given year will be deducted from that quantity <sup>which</sup> ~~will~~ is to be delivered to the applicant for his irrigation needs.
5. The irrigation company will be assessed for any extra costs necessitated in administering this exchange and that cost shall be borne by the applicant.

This decision is subject to the provisions of Section 73-3-14, Utah Code Annotated, 1953, which provides for plenary review by the filing of a civil action in the appropriate district court within 60 days from the date hereof.

cc: River Commissioner, Winfield Peterson, H. Eugene Nielson, protestants and representatives.